

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

FIRESTONE DIVERSIFIED PRODUCTS, LLC,
f/k/a BFS DIVERSIFIED PRODUCTS, LLC, and
FIRESTONE INDUSTRIAL PRODUCTS
COMPANY, LLC,

CASE NO. 09-10992

HON. MARIANNE O. BATTANI

Plaintiffs

v.

ALPHA ENGINEERED REFRIGERATION
COMPANY,

Defendant.

_____ /

ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Now before the Court is Plaintiffs' Motion for Summary Judgment (Doc. No. 10). The Court issued a scheduling order in this matter setting September 25, 2009, as the deadline for Defendant's response to the motion. In addition, the Court set a hearing date of December 2, 2009. Defendant has failed to respond to the dispositive motion and did not appear at the time set for oral argument. The Court has reviewed the pleadings and finds summary judgment is appropriate.

It is undisputed that Plaintiffs contracted with Defendant to design and construct two environmental test chambers. It also is undisputed that Plaintiffs paid Defendant \$163,000; however, Defendant neither delivered the test chambers nor refunded Plaintiffs' money. Consequently, the Court finds that Plaintiffs have established they are entitled to summary judgment on their breach of contract claim. Finally, in their supplemental filing Plaintiffs request \$163,000 in damages as well as \$19,113.42 in prejudgment interest, and

\$350 in court costs. Defendant has not contested the requested amounts. The Court finds Plaintiffs are entitled to judgment in the amount of \$182,463.42.

Accordingly, Plaintiffs' motion is **GRANTED**.

IT IS SO ORDERED.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

Date: December 11, 2009

CERTIFICATE OF SERVICE

Copies of this Order were mailed and/or electronically filed to counsel of record on this date.

s/Bernadette M. Thebolt
Case Manager